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ABSTRACT

In response to greater public awareness and concern, members of the legal and medical professions have begun to acknowledge that they have leadership roles to play in the shaping of public policies affecting the common good. The rapid pace of social change and scientific development has lent a new sense of urgency to the need for these two professions to reconcile their specialized technical expertise with profound ethical questions concerning their mission and role in society. The loss of status by, and public esteem for, the legal and medical professions has occurred at the same time that doctors and lawyers have distanced themselves most from interest in the common good and social justice. In none of its waves has the recent educational reform movement highlighted the moral and ethical dimensions of teaching and learning. Yet, more than ever before, it is urgent that new technologies and reform strategies be evaluated as means for achieving ends that promote the common good. The absence of a unified teaching profession has been partially due to conscious and unconscious cultural sensitivities to the moral power inherent in schooling. The teaching profession potentially stands to augment its status and to enjoy increased control over its technical affairs by voluntarily acknowledging that education is first and foremost a moral enterprise strengthened by public involvement and participation. (JD)

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Ethical and Moral Dimensions of the Professionalization of Teachers: Lessons to be Learned from Doctors and Lawyers

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Ethical and Moral Dimensions of the Professionalization of Teachers: Lessons To Be Learned From Doctors and Lawyers

Timothy H. Smith, Hofstra University
American Educational Research Association, April 16, 1990

Throughout most of the twentieth century the medical and legal professions have enjoyed considerably greater autonomy, status, and moral freedom to regulate themselves than the profession of public school teachers. The historical fact that the Constitution left the development of schooling to the individual states marks the beginning of the explanation as to why the professional status of teachers is so different from that of doctors and lawyers. The fact that teachers have been paid out of public tax monies provided largely by the states and local communities, among which there are enormous discrepancies in economic capacity to support education, furnishes more insight into the plight of teachers' occupational status as well as their perceived worth as a unique and unified profession.

Recent trends suggest, however, that both the legal and medical professions may increasingly be subject to attempts to narrow the ethical prerogatives hitherto granted them. At the same time it is paradoxical that teachers might begin to reverse the direction of their historical predicament and secure for themselves greater autonomy and status. The most recent efforts to professionalize teachers can thus be seen as developments which may bring them more in line with the legal and medical professions. In this connection, what is clearly required is a strong and deliberate focus on the moral and ethical dimensions of their work. Such an emphasis does not preclude continued development of their academic and technical proficiencies and skills, but it has yet to gain articulation and momentum as

SP 032 545

the most essential ingredient in educational reform and teacher professionalization.

In their review of the history of the role of professional ethics in a variety of professions, Jennings, Callahan and Wolf write:

> Fifty years ago discussions of professional ethics took place mainly within the confines of the professions themselves. Professional norms and decorum were quietly passed along from one generation to the next. Most codes of professional ethics were concerned primarily with matters of etiquette, and their provisions served to shield the professions from outside interference.[1]

The authors go on to note that, since then, all the professions have at least implicitly recognized the need to maintain a balance between their private duties to their clients and their public duties to society as a whole, or to the common good. Ideally, then, a moral bonding not only links the members of a profession, but each of the professions to individual clients and to the public at large.[2]

In the recent past in many professions -- from medicine and law to social work and journalism -- more ethical stature has been accorded private duties to clienteles than public responsibility in service to a collective good. Doctors today are not well known for their eagerness to treat the poor or those without insurance, and lawyers are equally vulnerable to a similar sort

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[1] Bruce Jennings, Daniel Callahan, and Susan M. Wolf, "The Public Duties of the Professions", Hastings Center Report, Special Supplement (February, 1987), 1. (It is at least noteworthy perhaps that the authors single out for discussion six major professions other than teaching in this report).

[2] Ibid., 3.

of criticism. Accordingly, public opinion has become more skeptical, if not openly cynical, about the meaning and value of the term "professional," which has come to be regarded more and more in medicine and law "as an ideological smoke screen masking economic self-interest and social power."[3]

In response to greater public awareness and concern, members of the legal and medical professions have begun to acknowledge that they have leadership roles to play in the shaping of public policies affecting the common good. The rapid pace of social change and scientific development has lent a new sense of urgency to the need for these two particular professions to reconcile their specialized technical expertise with profound ethical questions concerning their mission and role in society. As Jennings, Callahan and Wolf emphasize, nothing less than what it means to be a professional is at stake, and, in their view, this is above all a moral meaning.[4] Further,

> Many of our society's most pressing problems are fundamentally moral problems. They raise questions about the ends and values our institutions should serve, and about the justifiable means to achieve those ends. Hence leadership requires clarity of moral vision as well as specialized expertise . . . . [All] professions must [therefore] be attentive to their emerging public roles and responsibilities.[5]

Medical advances in the twentieth century have been characterized by scientific and technological breakthroughs; many of these have been dramatic in nature and have tended to make the practice of medicine seem

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[3] Ibid., 4.
[4] Ibid., 5.
[5] Ibid.

esoteric and beyond the comprehension of even well educated people. The exalted status that doctors have acquired probably owes much more, therefore, to the wide publication of these breakthroughs than to the general practice of medicine. Indeed, as Martin Rossman, among others, has pointed out,

> The institution of medicine bases much of its authority on the claim that it is a scientific discipline . . . . While this is a noble goal, the fact is that the day-to-day practice of medicine includes very little that is scientifically well proven and a good deal that is not.[6]

Rossman further acknowledges that

> If doctors were [in fact] to limit themselves to using only treatments that have been conclusively proven worthwhile through double-blind studies, doctors would prescribe very little treatment at all.[7]

Less publicized, but in some ways no less dramatic, is the increasing number of clinical studies attesting to the therapeutic benefits of self-conducted imagery and relaxation techniques which, among other discoveries, entail subtle interactions between mind and body. These will assuredly have greater impact in limiting and altering medical practice in the future.[8] As some of these discoveries become part of common culture, and as more attention is focused upon the social and emotional origin of medical problems, doctors will need to assume a greater role as educators of the public on preventive health-care measures and less of a role as omniscient

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[6] Martin L. Rossman, Healing Yourself. (New York: Simon and Schuster, 1987), 8.

[7] Ibid.

[8] See, e.g., Norman Cousins, Head First: The Biology of Hope (New York: E. P. Dutton, 1989).

scientists worthy of special reverence. Concern over spiraling medical care costs in recent years may by itself force changes in policies and practices reflecting such developments.

Furthermore, many of the ethical treatises[9] published recently have been provoked by dramatic technical progress which can be measured or demonstrated in mechanical or quantitative terms. Human bodies diagnosed as comatose, or brain-dead, can be kept alive for years or even decades, albeit at enormous costs; test-tube babies can be manufactured who have a genetic mother who is different from their biological mother. Entire books have recently appeared attempting to provide ethical and legal guidelines for doctors and hospitals to use in deciding whether, or when, to enable hopelessly ill patients to die.[10] It is even likely in the future that lawsuits against doctors and hospitals for keeping patients alive will outnumber those for malpractice in which patients have died. Nevertheless, if such striking achievements are not irrelevant to the quality of health care, they are not necessarily central to it, nor are they responsive to consumer demands for more adequate and qualitatively different heath care services.

Accordingly, while the consumer health-care movement is likely to generate more thorough regulation of the practice of medicine, a growing number of physicians will become salaried professionals in private agencies or health maintainance organizations whose services will be paid for by the Federal

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9 See especially the Hastings Center Reports.

10 See, for example, The Physician and the Hopelessly Ill Patient by the Society for the Right to Die (New York: Society for the Right to Die, 1985).

government.[11] As Congress debates the need for comprehensive insurance coverage for all Americans, the bill to be enacted will doubtless provide not only for significant regulation of fees but will also ultimately circumscribe the practice of medicine in a variety of new ways.

Such political and social control over the practice of medicine will pose a major challenge to the common conception of doctors that has predominated throughout most of the twentieth century. That conception not only granted a great deal of authority to doctors, but also ensured them financial success and prestige. On all these fronts doctors in the future stand to lose; less autonomy, less freedom, less income and eventually less exalted status are clearly in the offing.[12] Because some of these changes have already occurred, it is not perhaps surprising that, in a recent poll, nearly 40% of those practicing physicians interviewed revealed that they would "definitely" or "probably" not choose medicine as a career if they were given the choice over again.[13]

The scientific mystique surrounding doctors in twentieth century America made it possible for them to ignore social responsibilities they might otherwise have accepted. This deferential attitude toward their authority was built upon the optimistic assumption that scientific progress was unlimited and that even death might be conquered. But if such an assumption seemed warranted, Callahan reminds us that doctors themselves were no more responsible for their extreme adulation than the society

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[11] Lawrence K. Altman with Elizabeth Rosenthal, "Changes in Medicine Bring Pain to Healing Profession" New York Times (Feb. 18, 1990. 1), 34-35.

[12] Ibid.

[13] Ibid., 1

worshiping them. Caught up in both the modernist belief in infinite progress and an almost religious faith in rationalistic science capable of controlling life and death, American society lost its sense of humility and mortality. An obsessive interest in mere survival at any cost fostered a denial of death which undermined our capacity to value other human needs and qualities. But in Callahan's view,

> A society excessively bent on conquering illness and death is certain both to fail and to harm many other values and human goods in the process. Life . . . [ought] to be lived for the sake of living a life, not for the sake of avoiding a death.[14]

Callahan proposes a new vision for medical care severely qualifying our twentieth century faith in unending scientific progress. He proffers a new and different set of priorities that stresses caring for the incurable first, and only last, supplying "high technology" medicine for the few who can afford it. In between he sees a prominant role for a vast array of preventive medical care practices and principles.[15] Basically the attempt to put such an agenda before the public is grounded in the view that the moral underlies and gives significance to the political and social. Only an alienated and self-interested profession can avoid confronting such qualitative moral issues embedded in the delivery of health care services; yet doctors have tended to shun these and many related moral issues when they, in particular, need to provide leadership in addressing them. Because of the privatization of health-care services, doctors have generally been able to confine their moral obligations

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[14] Daniel Callahan, "Modernizing Mortality: Medical Progress and the Good Society", Hastings Center Report, Vol. 20 (Jan./Feb. 1990), 30.
[15] Ibid.

to an individualized clientele; but they will soon be compelled to redefine a broader mission. A morally responsible profession can do no less.

In turning now to the legal profession, we can observe that, since Watergate, lawyers have suffered an even sharper decline in their status and public image. As more explicit attention has been focused upon its ethical short-comings, the profession has also begun to experience inroads into its seemingly impervious self-regulating autonomy and its capacity to control competitive threats to the provision of legal services. The publicity surrounding legal advertising in recent years has only served to remind the public of the aggressive entrepreneurial dimensions of the profession. The American Bar Association in fact became so distressed with the public image of lawyers that it voted at annual meeting in 1988 to authorize its leaders to plot a "public relations campaign."[16]

That such a campaign may be warranted is highlighted by the publicity regarding current starting salaries for attorneys in top law firms, currently reported to be between $65,000-82,000, with $350-400 per hour fees collected by senior partners in such firms.[17] Less publicized is the fact that some studies estimate that alcoholism among lawyers may be as high as twice the level for the population at large; and one recent study reported in the American Bar Association Journal indicated that 41% of the lawyers interviewed were so unhappy with the working conditions they experienced

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16 Michael Brozda, ed., "Those Unlovable Lawyers" in Ethics: Easier Said Than Done, Vol. 1 (1989), 44.

17 Josephson, Michael, ed. "Lawyers Fees Hit $400 an Hour" in Ethics: Easier Said Than Done, Issues 7 and 8 (1990), 34.

that they would go into another profession if they had the opportunity to start a career over again.[18]

Our modern materialistic culture has also made it easier for the legal profession to privatize its services and isolate itself from other societal institutions in the name of professional autonomy. This success-oriented culture has helped to seduce many attorneys away from their historic mission as part of a helping service profession. Not unlike their medical counterparts, lawyers also have developed a mystique around them to shelter their practices from outside interference and scrutiny. This mystique has been reinforced by the refinement of a specialized language that is difficult for anyone to comprehend without legal training. Dubbed "legalese," the use of such language has been challenged as unwarranted and not motivated by concern for precision of meaning or interpretation.[19] In addition, the fact that so many state legislators are also members of the bar has no doubt served politically to strengthen state bar associations and to minimize non-member participation in the regulation of activities and professional standards of the legal profession.

However, the profession is beginning to experience various challenges to its autonomy and control over access to legal services. Competition among attorneys for paying clients has never been more aggressive, labelling the profession as an over-populated, overly litigious, expensive seller of

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[18] Paul Ciotti. "Unhappy Lawyers" in Ethics: Easier Said Than Done, Vol. 1 (1989), 54.

[19] See, e.g., Tom Goldstein and Jethro K. Lieberman, The Lawyer's Guide to Writing Well (New York: McGraw-Hill, 1989, 119-22) and Richard C. Wydick, Plain English for Lawyers (Durham, N.C.: Carolina Academic Press, 2nd ed., 1985).

services.[20] The Legal Reformer, a publication of HALT, a national organization that seeks "Through education and reform advocacy . . . to enable people to handle their legal affairs simply, affordably and fairly",[21] has become influential in spurring a consumer law movement. A variety of HALT publications have helped to draw attention to the large and growing numbers in our population who are too poor to gain access to the legal aid they desparately need but are currently denied.[22] HALT predicts there will be intensely increased pressure on the legal profession in the 1990's to give its sanction to a number of paralegal services, especially where routine standardized practices have developed.[23] Further, the long honored adversary tradition itself has come into question, a tradition that appears to many to benefit primarily rich corporations and wealthy individuals. In this connection, Deborah Rhode has suggested that, since lawyers are involved primarily with "producing belief", and not with generating knowledge, it is simply not right to "assume that the fairest results will necessarily emerge from two advocates arguing as unfairly as possible on opposite sides . . . .[24]

As David Luban has suggested, it is only in the last two decades that lawyers have been drawn away from their traditional sense of a mission that included concern for and action on behalf of principles of fairness and social

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[20] See, e.g., Michael Josephson, "Unloved Lawyers" in Ethics: Easier Said than Done, Vol. 1 (1989), 48-53.

[21] Richard Hebert, ed., "Editor's Desk" in The Legal Reformer, , Vol. 10 (Jan.-March, 1990).

[22] Richard Hebert, "Lawyers and the Law of Supply and Demand" in The Legal Reformer, Vol 10 (Jan.-March, 1990), 16-22.

[23] Ibid.

[24] Deborah L. Rhode, "Ethical Perspectives on the Legal Practice" in Ethics: Easier Said Than Done, Vol. 1 (1989), 74.

justice.[25] This sense of a moral mission underlying their professional work has been eroded as lawyers have learned to exploit the need for their specialized training and expertise, mirroring the greed of many of their corporate and private clients. In acknowledging this development, Richard Abel has recently written:

> The legal profession has constructed and defended an elaborate constellation of economic, social and political privileges. It propounds an ideology that allows lawyers to escape difficult moral choices by invoking their technical expertise. . . . lawyers [can thus] persist in seeing their daily work as morally neutral and apolitical.[26]

This state of affairs is such that law schools today are offering--and some even requiring--courses in legal ethics. Michael Josephson, an attorney, has founded an influential national institute bearing his name to bring ethics consciously and conspicuously back into the practice of law and to reaffirm the tradition of concern for social justice as the hallmark of the legal profession.[27]

In any event, lawyers no less than doctors, are soon destined to confront more rigorous external regulation of their work. It will no longer suffice for the legal profession to ward off such interference by increasing the quantity of *pro bono* cases it might otherwise neglect, or for the medical profession

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[25] David Luban, "Law: The Decline of the People's Lawyer?" in Hastings Center Report, Special Supplement, (Feb. 1987), 11-12.
[26] Richard L. Abel, American Lawyers, (London, New York: Oxford Univ. Press, 1989) as cited in the New York Times, (Jan. 5, 1990), B6.
[27] See publications of The Josephson Institute for the Advancement of Ethics, Marina del Rey, Ca.

merely to offer more free health services to the poor. The loss of status by, and public esteem for, the legal and medical professions has occurred at the same time that doctors and lawyers have distanced themselves most from interest in the common good and social justice. There are, in short, genuine lessons here for understanding the history of the teaching profession and for charting its future possibilities.

On this analysis, efforts to upgrade teaching as a profession and to reform the schools in the 1980's have been misdirected to the extent that they have been focused exclusively on the technocratic and rationalistic dimensions of education.[28] It is not that measurable results are not desirable, but, rather, that emphasis upon them in isolation obscures the profound and deeper educative mission to which the schools need to be committed. This mission involves nourishing emotional and intellectual dispositions of an appropriate sort -- namely, those that enable children to grow into human beings who can derive meaning and direction from a pluralistic democracy in the context of a complex world.

In none of its waves has the recent reform movement highlighted these moral and ethical dimensions of teaching and learning. Yet more than ever before it is urgent that new technologies and reform strategies be evaluated as means for achieving ends that promote the common good. Tests of various sorts that purport to measure success quantitatively in learning and teaching need to be recognized as fringe dimensions of desirable change. Indeed, dramatic progress in improving national standardized test scores is

[28] David E. Purpel, The Moral and Spiritual Crisis in Education, (Granby, Ma.: Bergin and Garvey Publishers, 1989). See especially Chapter 1, 1-13.

even to be feared. New technologies and packages of Skinnerian reinforcements might yet be developed to enable schools and teachers to achieve this sort of demonstrable success. In the process a generation of alienated, apolitical and amoral children might be fostered. Such a direction and pattern are encouraged, in David Purpel's view, by the reform movement's emphasis upon, e.g., SAT scores, quantities of assigned homework, time-on-task studies, merit pay proposals, etc., precisely because they trivialize the profound moral and spiritual crises our culture and our planet confront.[29] In the face of nuclear proliferation and terrorism, impending ecological planetary disasters, and growing disparities between rich and poor with regard to access to medical care, economic and social justice, we simply cannot afford to concentrate on fragmented attempts to make the schools or the education profession more measurably accountable in the short term.

Fortunately, schooling is embedded in and imbued with conservative cultural and social tendencies that will hopefully resist such packaging and manipulation on a large scale. But if presidents of the United States can be elected to office and maintained there simply on the basis of effective advertisements and other manipulative tools that preclude thinking about issues that ought to be discussed and publically debated[30], there is the danger that frustration with lack of progress in the reform of schooling will result in avoidance of the hard moral development issues and encourage us to settle for dramatic increases in test scores as ways to demonstrate cost-

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29 Ibid., 14-27.

30 Michael Oreskes, "America's Politics Loses Way as Its Vision Changes World", New York Times, (March 18, 1990), 1, 22.

efficiency and institutional achievement. Clearly the message of Haim Ginott is relevant in his recollection of the success of Nazi Germany in mobilizing the energy and efforts of an entire society toward horrifying ends. He reminds us that highly trained, skilled and formally well educated judges, doctors and teachers lost total sight of the human and humane goals towards which society and schooling as an enterprise must be directed.[31]

In reacting to the impetus for reform, formal education has often tended to incorporate the worst in both liberal and conservative thought rather than the best in each. The ideology of liberalism, as a legacy of Hobbes and Locke as much as of Bentham and Mill, has culminated in the twentieth century in condoning excessive individualism, competition, and the glorification of individual rights. It has also tended to reject the wisdom in philosophic conservative thinking that appropriately reminds us of enduring weaknesses in human nature too easily exploited in a culture which lacks a sense of community and solid social commitment and grounding in the moral content of democratic living.[32] A postmodern world, in Bowers' view, would thus also become a "post-liberal" world -- that is, post-liberal in the sense of saving the forces of liberalism in modern times from their own disproportionate stress upon individual rights over social responsibilites[33]. While liberal thinking has genuinely advanced the conscience and course of Western civilization, its values and assumptions have ignored or underplayed the equally strong human need for community and solidarity. In this way recent attempts to reform schooling address the need to change

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31 Haim Ginott, Teacher and Child (New York: MacMillan, 1972), 317.
32 C.A. Bowers, Elements of a Post-Liberal Theory of Education (New York: Teachers' College Press, 1987), 94-105.
33 Ibid., 21.

the "culture" of individual schools[34] and reflect a better balance of conservative and liberal thinking and values. Conscious adult role-modeling and closer teacher-student relationships and interactions, for example, are characteristically part of such reforms. Accordingly, such qualititative strategies go well beyond mere technocratic measures to promote change insofar as they intentionally cultivate democratic values and processes.

More so than doctors and lawyers, teachers have been compelled to acknowledge their social and economic interdependence in carrying out their professional mission. If they have historically enjoyed less political autonomy and self-regulation as a profession than their medical and legal counterparts, it may be partly because our democratic culture has tacitly recognized the moral importance of their educative mission. Parental concern about the institutional implementation of that mission may be expressed as resistance to change, sometimes constructively and other times destructively. Thus the absence of a unified teaching profession has been partially due to conscious and unconscious cultural sensitivities to the moral power inherent in schooling. For all its disadvantages, local and state control of education has served to protect our pluralistic diversity requiring teachers to be responsive to input from multifaceted communities in defining and interpreting the patterns and directions of democratic life. But unless and until democracy itself is more widely, commonly and consistently experienced as a mode of associated life, the potential moral unity that

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[34] See Robert G. Owens, "The Leadership of Educational Clans" in Leadership: Examining the Elusive (1987 Yearbook of the Association for Supervision and Curriculum Development), 16-29.

teachers might otherwise enjoy as members of one profession will remain implicit.[35]

For a large part of the twentieth century the political and economic status of doctors and lawyers has enabled them to define their moral mission with perhaps too much autonomy. Their technical expertise and the resulting accomplishments have dazzled our society at the expense of long-term moral and ethical perspective. But we need to go beyond blaming these professions and to recognize the social, political and economic forces influencing them. They were, after all, following the map of modernity in directions which designated too narrow a set of beliefs about the role and nature of professional service. An unqualified ideology of individualism, together with belief in inevitable progress, abstract rationality and technological innovation, has conspired to alienate law and medicine from an adequate moral definition of a helping profession promoting the common good. In this sense, the teaching profession paradoxically can be grateful it has never been permitted the luxury of such freedom and autonomy. Moreover, if current trends continue, the medical and legal professions will both be increasingly required to subject their practices and goals to critical supervision from the public. Correspondingly the teaching profession potentially stands to augment its status and to enjoy increased control over its technical affairs by voluntarily acknowledging that education is first and foremost a moral enterprise strengthened by public involvement and participation.

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[35] John Dewey, Democracy and Education (New York: MacMillan, 1916), 81-99.

In this connection, Jennings speaks as follows of the positive possibilities inherent in the diversity and pluralism characteristic of our democratic society:

> The mere existence of moral and religious diversity in our society does not make . . . [thoughtful and effective] discourse impossible. On the contrary, it is . . . pluralism that makes civic discourse about our shared values and fundamental ends as a political community even more essential than it might be in a more homogeneous society. To say that a society is ethically pluralistic is not to say that it is [merely] ethically fragmented. To say that our *res publicus*, our community of communities, is diverse and often fundamentally divided on important moral and political issues is not to say that we are but a mere alliance of factions and no community at all.[36]

Of course there is fragmentation as well as alienation in modern society and the schools have had to cope with these burdens even as they have been asked to combat them. Clearly a commonly shared and mature democratic life has yet to be fully experienced by individuals or institutions. But unlike medicine and law, educational institutions have remained more vulnerable and sensitive to the good and ill in the modern world and have suffered more perhaps in their responsiveness to social and cultural discord. Nevertheless it appears inevitable that medicine and law as professions will in the future experience considerable and painful difficulty adjusting to less freedom from regulation and oversight by other institutions representing the public interest and safeguarding democratic principles. Accordingly, while the teaching profession has something to learn from the twentieth century history of medicine and law, it has something as well to teach these two historically more venerated professions.

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[36] Bruce Jennings. "Bioethics as Civic Discourse" in Hastings Center Report, Vol. 19 (Sept/Oct 1989), 34-35.